

EXPLANATORY MEMORANDUM TO

The Taxis Act (Northern Ireland) 2008 (Retention and Disposal of Seized Motor Vehicles, Equipment and Items) Regulations (Northern Ireland) 2016

S.R. No. 2016 No. 90

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 42 of the Taxis Act (Northern Ireland) 2008 (the 2008 Act) and is subject to the negative resolution procedure under s.56(4) of the 2008 Act.

2. Purpose

- 2.1. Sections 38 and 41 of the 2008 Act permit the seizure of motor vehicles, equipment and items when suspected of operating as a taxi without a proper licence under the Act. The proposed Statutory Rule provides the arrangements by which the seizure, retention, application for the release and disposal of such vehicles and equipment will be regulated.

3. Background

- 3.1. The 2008 Act provided powers enabling the Department of the Environment to develop a taxi reform programme, with the aim of modernising and simplifying the Northern Ireland taxi industry. The Department of the Environment made a number of statutory rules in December 2015, each of which focus on a particular aspect of taxi reform.
- 3.2. The purpose of the Statutory Rule is to set out the procedure for the retention, safe keeping, release and disposal of vehicles or equipment and items that have been seized.
- 3.3. Section 38 of the 2008 Act provides that an authorised officer or constable may enter at all reasonable times any premises which are specified as an operating centre to inspect those premises and any items found there. Section 38(8) of the 2008 Act allows for an authorised officer or constable to seize and remove equipment and items found on those premises which the officer or constable has reasonable cause to believe may be required as evidence for prosecuting certain offences under the 2008 Act. Section 41 provides that where an authorised officer or constable exercises powers under section 40 of the 2008 Act (power to stop and examine motor vehicles suspected of illegal taxiing etc.) and has reasonable grounds for believing that the vehicle is or was being used in contravention of section 12 (requirement for taxi licence), the authorised officer or constable may seize or remove a vehicle together with any equipment or items found in it.

- 3.4. Although the regulation of taxis is a matter for the Department of the Environment, the power to make the Statutory Rule in Section 42 was originally vested in the Secretary of State but was transferred to the Department of Justice by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010. The rule will therefore be made by the Department of Justice, supported by the Department of the Environment.

4. Consultation Outcome

- 4.1. The Department of the Environment completed a public consultation on proposals for Taxi Licence and Powers of Seizure Regulations within Northern Ireland between 4 July and 30 September 2011. During this period the Department of the Environment met with stakeholders and received written responses from those consulted. The consultation exercise resulted in Department of the Environment receiving written responses representing the views of almost 3000 people.
- 4.2. In respect of the proposed powers of seizure, the consultation focused on the conditions for returning a seized vehicle to the owner, the period of time in which an owner can apply for return of a seized vehicle (14 days), and the requirement for the registered keeper to pay the charges of retention and recovery prior to the vehicle being returned to them.
- 4.3. The conditions proposed in the consultation were that a valid taxi licence had to be produced for the vehicle to be returned. In light of comments made following the consultation, the proposed conditions for the return of seized vehicles to owners were amended. As a result the requirement is now for the registered owner or his/her agent to produce proof of ownership of the vehicle and proof of insurance for the driver.
- 4.4. Other comments received in the consultation were that the period within which an owner can apply for the return of a seized vehicle, fourteen days, was too short. The Department did not accept the representations made, on the basis that other, similar legislative provision operates well with a fourteen day period. The proposal for a fourteen day period has therefore been retained in the Statutory Rule.

5. Equality Impact

- 5.1. The policy has been screened in respect of compliance with section 75 of the Northern Ireland Act 1998. The Statutory Rule will have minimal public impact, and the screening process identified that there was no differential impact on any of the section 75 categories. It was therefore not considered necessary to carry out a full Equality Assessment.

6. Regulatory Impact

- 6.1. An initial Regulatory Impact Assessment was developed and published as part of the Department of the Environment consultation on these provisions. No specific impacts were identified as arising from the proposed Statutory Rule.

7. Financial Implications

- 7.1 There will be a financial impact on those vehicle owners whose vehicles are seized, as they will be required to pay a fee to have the vehicle released. The fee will cover the cost of removal and storage of the vehicle. Aside from limited administrative costs, there will be no financial impact on Government.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The provisions in the proposed Statutory Rule have been screened for any conflict with the provisions of Section 24, but no such conflict has been identified.

9. EU Implications

- 9.1 Not applicable.

10. Parity or replicatory measure

- 10.1 The measure does not replicate any existing measures in other areas of the United Kingdom.

11. Additional information

- 11.1. The Statutory Rule is made under section 42 of the Taxis Act (Northern Ireland) 2008. The commencement of section 42 is contained in The Taxis (2008 Act) (Commencement No. 5) Order (Northern Ireland) 2015 which is due to commence on 31 May 2015, as is section 41 (Power of Seizure) to which this Statutory Rule relates. The Statutory Rule is also due to come into operation on 31 May 2016. Section 41 provides that the powers conferred by that section are exercisable only at a time where regulations under section 42 are in operation. Section 16 of the Interpretation Act (NI) 1954 allows for the use of powers to make an instrument before the enactment which give the power to make it come into force.